

ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )  
 )  
Amendment of the Commission's Rules ) ET Docket No. 98-237  
with Regard to the 3650-3700 MHz )  
Government Transfer Band )

**REPLY COMMENTS OF PANAMSAT CORPORATION**

PanAmSat Corporation ("PanAmSat"), by its attorneys, hereby submits this reply to the comments filed regarding the above-referenced Notice of Proposed Rulemaking ("NPRM").

**Discussion**

As PanAmSat demonstrated in its initial comments, the 3650-3700 MHz extended C-band is: (1) allocated internationally for FSS downlinks; (2) an increasingly valuable spectrum resource for the FSS industry; and (3) unnecessary for the development of the terrestrial services contemplated in the NPRM. The comments filed by other parties in this proceeding, including those filed by the terrestrial fixed service ("FS") interests, add further reasons for the Commission to abandon its proposal to reallocate the extended C-band.

**1. The 50 MHz Of Spectrum At Issue Is Too Narrow And In The Wrong Location To Be Of Serious Value To Providers Of Fixed Wireless Access.**

The proposal in the NPRM to reallocate the extended C-Band was premised on the notion that this spectrum could be used to provide point-to-point and point-to-multipoint Fixed Wireless Access ("FWA") and that it will help to speed the deployment of advanced network services. NPRM ¶ 1. In fact, however, as even a number of the proponents of the Commission's proposal have recognized, "the Commission is unlikely to further local exchange competition by dedicating 50 MHz at the end of the 3650-3700 MHz band for Fixed Wireless Access [because these] frequencies are the wrong size and the wrong location for any meaningful development of FWA." Comments of SBC Communications Inc. at 1; see also, e.g., Comments of Lucent Technologies, Inc. at 2-3 (the 50 MHz allocation is "insufficient

Mr. R. G. ... at 11  
C. A. ...

to realize the Commission's objectives"); Comments of SR Telecom Inc. at 6 (proposed allocation insufficient to support FWA or advanced services); Comments of Motorola at 2 (same).

One FS party goes so far as to argue that the proposed allocation "would discourage rather than encourage the near term introduction of wireless technologies." Comments of Airspan Communications Corp. at 1. The fact that these parties concede that the 3650-3700 MHz band is not suitable for FWA and advanced network services should give the Commission pause as it considers the proposed reallocation. If the proponents of FWA services — who know best of all the shortcomings of using 3650-3700 MHz for FWA — are right and the spectrum will be of little use to them, then the public interest balance strongly favors maintaining the current allocation of the spectrum, which is of vital importance to the FSS industry.

**2. The Proposed Reallocation Would Put U.S. International Carriers At A Competitive Disadvantage *Vis-A-Vis* Their Foreign Rivals.**

As Sprint explains in its comments, restrictions on the ability of U.S. international carriers to access international satellite circuits in the extended C-band will place Sprint and other U.S. international carriers "at a serious competitive disadvantage." Sprint Comments at 3. PanAmSat concurs. Needless to say, there is no public interest benefit to be realized by hamstringing U.S. international carriers in their efforts to succeed in the global telecommunications marketplace.

**3. The Reallocation Proposed In The NPRM Would Undercut International Actions That The United States Already Has Taken To Secure Access To The Extended C-Band For Various TT&C Functions.**

The Commission already has filed both advance publication and coordination materials with the ITU indicating that it is the intent of the United States to use the 3650-3700 MHz band for GSO and NGSO TT&C for satellites operating in the Ka-band and higher. See Joint Comments of TRW Inc. & Lockheed Martin at 5; Comments of the Satellite Industry Association at 5-6. Further, this band was the only portion of the extended C-band advanced published by the United States for this purpose.

Adoption of the proposal in the NPRM would nullify those filings and could require new advance publication to accommodate TT&C for FSS above the Ku-band.

This would entail not only the loss of date priority for U.S. satellite systems, it also could result in U.S. satellite systems incurring additional costs under the ITU's new "cost recovery" policies. In either case, the United States will have undercut its own position in the international community and handed a competitive advantage to foreign satellite systems.

**4. The Comments Reveal That A Petition For Rulemaking Seeking Additional Spectrum For FWA Services In This Band Was Filed, But Was Never Put Out For Comment.**

As stated in the Comments of Transcomm, Inc., a petition for rulemaking was filed in September of 1998 seeking spectrum for FWA services in the 3400-3700 MHz band. See Comments of Transcomm at 2. Nonetheless, rather than seek public comment on the petition, the Commission has proceeded directly to a rulemaking to develop service rules for the proposed allocation. As PanAmSat noted in its initial comments, this side-stepping of procedure has denied other parties a fair opportunity to participate in the Commission's decision making process and prevented them from making their case until presented with a virtual *fait accompli*. Due process, fundamental fairness, and sound administrative practice demand more of the Commission.

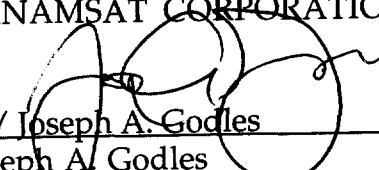
**CONCLUSION**

The reallocation of the 3650-3700 MHz band proposed in the NPRM, if adopted, would have serious negative competitive consequences not only for the FSS industry, but also those who rely on FSS facilities and services such as U.S. international carriers. The proposed reallocation also would undermine prior U.S. efforts internationally to secure adequate spectrum for new space-based services, and would lead to wasteful and duplicative efforts to obtain alternative spectrum. All of this would result from a proposal that, even many of its proponents concede, would provide little benefit in terms of enhanced local competition, increased access to advanced services, or the roll-out of FWA. For the reasons set forth herein and in

PanAmSat's initial comments, the Commission should abandon its proposal to reallocate the 3650-3700 MHz band.

Respectfully submitted,

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